

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 1:23-cv-11111-IT

LM, a minor by and through his father and
stepmother and natural guardians,
CHRISTOPHER AND SUSAN MORRISON,

Plaintiff

v.

TOWN OF MIDDLEBOROUGH;
MIDDLEBOROUGH SCHOOL
COMMITTEE; CAROYLN J. LYONS,
Superintendent of the Middleborough Public
Schools, in her capacity; and HEATHER
TUCKER, acting Principal of John T. Nicholas
Middle School, in her official capacity,

Defendants

SECOND AFFIDAVIT OF HEATHER
TUCKER

I, Heather Tucker, hereby attest to the following, based on my personal knowledge and records available to me in my official capacity:

1. I am the Interim Principal of the John T. Nichols Jr. Middle School (“NMS”). I have held that position since March 20, 2023. The students who attend NMS are in the sixth through eighth grades and are between ten (10) and fourteen (14) years of age.
2. Prior to becoming the Interim Principal of NMS, I worked as the Administrator of Special Education, Principal of the Jones Early Childhood Center, and Assistant Principal of the Dawe Elementary School in the Town of Stoughton and as the Director of Special Education in the Town of Duxbury as well as a Special Education Teacher. In my previous roles, I have vast experience working on inclusivity seeking to eliminate the marginalization of students not only based on their special education needs, but also on

their marginalization due to their membership in a protected class. I have been in meetings with parents of students and students themselves who have been bullied because of their membership in a protected class and relevant here, because of the lack of acceptance of their gender identity. I have worked closely with students who have been hospitalized for attempted suicide or suicidal ideation or who have self-harmed because of their gender identity. I have also worked on teams who have recommended out of district placements for students because of their gender identity and suicidal ideation. Attached hereto as Exhibit A is my CV.

3. The NMS Student and Family Handbook is provided each year to students and their families. Each student and a parent signs a form agreeing to abide by the policies contained in the NMS Handbook. According to our records, LM and his father signed the Handbook on September 1, 2022.
4. The NMS Handbook contains a Dress Code for all students who attend NMS.
5. On March 21, 2023, my second day of employment as Interim Principal of NMS, I was notified by the Assistant Principal, Jason Carroll, that the Plaintiff was wearing a t-shirt with the message, "there are only two genders." Plaintiff's teacher reported the t-shirt and was concerned for Plaintiff's physical safety as well as other students' safety, citing to multiple members of the LGBTQ+ population at NMS as current students in the building who would be impacted by the t-shirt message and potentially disrupt classes.
6. I went to speak to the Plaintiff at the start of his physical education class. When I approached, I introduced myself and asked him to come speak to me. He asked if he was in trouble, I said no. He asked if it was about his t-shirt. I said yes. I offered him the

opportunity to change the shirt and return to PE before we left the gymnasium. He did not want to do so.


7. I met with the Plaintiff with a School Counselor and asked him to remove the t-shirt before returning to class. Plaintiff declined to do so. Despite several efforts to convince the Plaintiff to change his shirt, he continued in his refusal to change.
8. I contacted Plaintiff's father and asked that he have his son remove the t-shirt. He refused to comply with my request. Plaintiff's father then came to school and dismissed Plaintiff from school that day indicating that he preferred this course of action over removal of Plaintiff's t-shirt.
9. Plaintiff was not disciplined for wearing the t-shirt to school on March 21, 2023.
10. Plaintiff returned to school the following day and every school day after the t-shirt incident. The Plaintiff did not face discipline.
11. Plaintiff was permitted to express his political views through clothing with messages including "Don't Tread on Me" and "First Amendment Rights" "Freedom Over Fear" and "Let's Go Brandon." Plaintiff was not asked to remove this clothing.
12. Plaintiff is not prohibited from posting messages on social media when he is not in school.
13. On April 13, 2023, there were two individuals outside of NMS, but not on school property, holding signs that read, "there are only two genders" and "keep woke politics out [of] our schools."
14. Although not on school property, the protestors were stationed at the entrance to the bus drop-off area, and they were in plain view of students as they entered school grounds.

15. On April 14, 2023, counter protests were held outside of NMS with signs that read, “trans people belong” and “we support trans rights” and “everyone is welcome here” among other messages.
16. On or about April 29, 2023, the incident involving the Plaintiff’s t-shirt became the subject of local and national news coverage which included, interviews of Plaintiff and significant discussion on social media amongst students, parents, and others.
17. On May 1, 2023, the NMS received over fifty (50) telephone messages that contained hateful and lewd messages after the news coverage about Plaintiff. These calls continued across this and the following week to a lesser degree. I and some of the staff at NMS received emails from individuals in Massachusetts and from outside the state some of which contained hateful messages. The messages diminished over time but started up again after the recent hearing on Plaintiff’s Motion for a Temporary Restraining Order.
18. On April 28, 2023, I was informed by Superintendent Lyons that she had received correspondence from an attorney purporting to represent Plaintiff claiming that Plaintiff was intending to wear a shirt bearing the phrase “There Are Only Two Genders” to school on May 5, 2023. Prior to May 5, 2023, I met with Superintendent Lyons and the School Department’s attorney concerning the letter from Plaintiffs’ attorney. Given the amount of media attention the subject had garnered, the prior protests at the entrance to the school, the numerous hateful messages received and the potential that other students would also attempt to wear clothing with the same or similar messages, we were concerned that if Plaintiff wore the same or similar t-shirt on May 5, 2023 that it would cause significant disruption in school and would place students in the LGBTQ community in fear for their safety.

19. On May 5, 2023, Plaintiff was dropped-off at school and was observed wearing a t-shirt with the message “there are only censored genders,” covering the word “two” with the word “censored.”
20. To avoid disruption and having to remove Plaintiff from class, the Assistant Principal brought Plaintiff to the Assistant Principal’s Office.
21. Plaintiff was left alone for a short time while the Superintendent, School Counsel, and I conferred about how to proceed. It was decided to not allow him to wear the shirt during school that day.
22. Although the meeting lasted only for a few minutes when I returned to the Assistant Principal’s office Plaintiff had already taken off the t-shirt. Plaintiff was given the option of keeping the t-shirt in his backpack for the rest of the day or leaving it in the Assistant Principal’s Office. Plaintiff chose to put the t-shirt in his backpack.
23. Plaintiff was not disciplined for wearing the t-shirt to school on May 5, 2023 and was allowed to proceed with his school day in the normal course.
24. On or about Tuesday, May 9, 2023, two additional students appeared at school with t-shirts bearing the slogan “There Are Only Two Genders.” Both students were required to meet with me and were required to change their shirts. I explained to each the reasons for my decision. One student complied and was allowed to return to class. The other refused to remove the shirt and the student’s parents were called. I met with the student’s mother, in person, at the school. Following this meeting, the student went home as the school day was over. Neither student was disciplined as a result of wearing the shirt.
25. On May 30, 2023, Plaintiff said to me and others when he got on the bus, “did you know there is something called first amendment rights?”

26. On May 31, 2023, the NMS received telephone messages that contained hateful and lewd messages after the news coverage about Plaintiff.
27. June 1st was the start of “Pride Month” and was designated as “Pride Day” at NMS. A variety of students come to school wearing rainbow colors to support the LGBTQ+
28. On June 1, 2023, Plaintiff came to school wearing a “freedom over fear” t-shirt with a 1776 star on it. Plaintiff was not told to remove that t-shirt.
29. During lunch on June 1, 2023, a staff was wearing a Mickey Mouse shirt that was rainbow colored. Plaintiff said to the student, “is that supposed to be a pride shirt, it looks pretty one-sided to me.” The staff responded to Plaintiff by saying, “no, it’s a rainbow Mickey Mouse.”
30. On June 1, 2023, Plaintiff was standing outside the bus door which was unusual. When I asked if the bus driver was in the bus, Plaintiff stated, “maybe she is in the restroom.” Plaintiff then laughed and said, “lawsuit.”
31. NMS has a Gay Straight Alliance (GSA) club that provides a safe and accepting space for students who either fit under the umbrella of LGBTQ+ or are their allies. The GSA is open to all NMS students. At any given time, there are approximately ten to twenty students who attend the GSA club meetings. I am aware of several students at NMS who identify as transgender or gender nonconforming.
32. I am aware of several NMS students who have attempted to commit suicide or have had suicidal ideations in the past few years. I have been informed that in July 2022, one MHS student committed suicide.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 9 DAY OF
JUNE, 2023.


Heather Tucker, Interim Principal
John T. Nichols Jr. Middle School

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